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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,502	03/29/2001	Lorin Evan Ullmann	AUS920010164US1	5093

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Joseph R. Burwell
Law Office of Joseph R. Burwell
P.O. Box 28022
Austin, TX 78755-8022

EXAMINER

TANG, KAREN C

ART UNIT

PAPER NUMBER

2151

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/820,502	ULLMANN ET AL.	
	Examiner	Art Unit	
	Karen C Tang	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/29/01</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

I. Claims 1, 2, 6-17, 21-32, and 36-45 rejected under 35 U.S.C. 102(e) as being anticipated by Yavatkar et al hereinafter Yavatkar (US 6,735,702).

1. Referring to Claims 1, 16, and 31, Yavatkar discloses a method distributed data comprising (network which share information, refer to Col 1, Lines 10-25): monitoring network packets (Col 4, Lines 1-3) within a processing system, the method monitoring multiple sources (nodes, refer to Col 1, Lines 10-25) of network packets (refer to Col 1, Lines 55-67) within distributed data processing system; identifying a source of network packets (refer to Col 1, Lines 55-67) as generating network packets having characteristics related packet size (refer to Col 1, Lines 65-67, and Col 2, Lines 1-45, where it is inherit that different type of traffic consists of different packet sizes.) that satisfy one or more predetermined conditions (precondition such as a set buffer length and rates, refer to Col 7, Lines 15-30); alerting a system administrator (watch dog

Art Unit: 2151

agent, refer to Col 3, Lines 55-67, and Col 4, Lines 1-5, which monitors and detect information/packets) the identified source network packets.

2. Referring to Claims 2, 17, and 32, Yavatkar discloses wherein a predetermined condition is a packet size less than packet size threshold value (the nodes consists the capability to store files, it is inherit that the nodes consist a predetermine storages threshold to store packet/data, refer to Col 7, Lines 42-60). He also discloses installation of the filter in the system (refer to Col 13, Lines 54-67), which can filter out the element which does not pass the threshold.

6. Referring to Claim 6, 21, and 36, Yavatkar discloses response to a request of the system administrator (agent), halting execution of the identified source (refer to Col 9, Lines 25-30).

7. Referring to Claims 7, 22, and 37, Yavatkar discloses response to a request of the system administrator (agent), pausing (halt is the type of the pausing) execution of the identified source (refer to Col 9, Lines 25-30).

8. Referring to Claims 8, 22, and 38, Yavatkar discloses initiating packet snooping session (referring to Claim 13, Lines 55-67).

Art Unit: 2151

9. Referring to Claims, 9, 24, and 39, Yavatkar discloses deploying distributed packet snoopers (bloodhound agent) from a packet usage manager (software modules, refer to Col 3, Lines 25-35) monitor the multiple sources of network packets (which order the bloodhound agent to collect/monitor attack traffic/multiple sources of network packets).

10. Referring to Claims 10, 25, and 40, Yavatkar discloses receiving packet filtering parameters distributed packet snoopers (using agents to collect information about network situation, refer to Col 4, Lines 24-30); matching packet filtering parameters against transmitted packets (packet filtering parameters such as a set transmitting rate for the buffer, if the transmitted packets exceed the buffer limitation, the packet can be dropped, refer to Col 7, Lines 19-28); and returning packet usage events (information is available for the agents to collect which would send it to the software modules, which is the packet usage manager) to the packet usage manager response to a determination a packet surpassed a limitation specified by the packet filtering parameters (which in case of congestion happened, the software module would halt (determination and act upon the event) the execution, refer to Col 3, Lines 35-37).

11. Referring to Claims 11, 26, and 41, Yavatkar discloses receiving a request for an action a target resource within the distributed data processing system (within network 4, nodes 48 transmit information to nodes 30, 44, 46, and 48 which accept information/request, refer to Col 7, Lines 42-60), wherein completion the action depends upon operations set resources along a logical route through the distributed data

Art Unit: 2151

processing system, wherein the request for the action the target resource (node 44) associated with user or an application (Management console application 9).

12. Referring to Claims 12, 27, and 42, Yavatkar discloses deriving one of the packet filtering parameters (when buffer become full, refer to Col 7, Lines 10-25) from an application (management console application 9) or a user associated with the request target for the action at the target resource (agent gather information from the source, refer to Col 3, Lines 25-60, which can access resources such as OS 5, or Network 4.).

13. Referring to Claim 13, 28 and 43, Yavatkar discloses selecting by the system administrator (agents which monitor information within the network such as nodes, refer to Col 3, Lines 54-67 and Col 4, Lines 1-47) one of the packet filtering parameters (buffer quotas) by choosing among a plurality of active applications or users (nodes) within the data processing system (refer to Col 7, Lines 10-30).

14. Referring to Claims 14, 29, and 44, Yavatkar discloses deriving set logical routes (tracing traffic/routes) from a network topology mapping (refer to Col 17, Lines 1-10), wherein each logical route is a series of endpoints (target node/nodes within the network are a series of endpoints which supports routing capability, refer to Col 7, Lines 45-46, nodes 30, 44, 46, and 48 are routers) that comprise an endpoint-to-endpoint route for completing requested action.

Art Unit: 2151

15. Referring to Claim 15, 30, and 45, Yavatkar discloses displaying the identified source of network packets system administrator in real time (it is known that the computer network communication within the WAN and LAN using PC, Laptop or Workstation via TCP/IP is running in the real time to transport information, refer to Col 1, Lines 10-35.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

II. Claims 3-5, 18-20, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yavatkar et al hereinafter Yavatkar (US 6,735,702) in view of Mawhinney et al hereinafter Mawhinney (US 6,826,620).

1. Referring to Claims 3, 18, and 33, Yavatkar discloses the information gathered by agent is encrypted before it is sent and decrypted by the receiving environment, and by decrypted the information, the actual packet payload size can be determined, refer to Col 9, Lines 40-60. Yavatkar also discloses the usages of nodes as routers, and the nodes consists the capability to store files, it is inherit that the nodes consist a predetermine storages threshold to store packet/data, refer to Col 7, Lines 42-60.

Art Unit: 2151

Yavatkar does not disclose the computed percentage of value of actual packet size to the maximum available packet payload size.

Mawhinney discloses the percentage of network availability (refer to Col 3, Lines 30-35)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Yavatkar and Mawhinney's invention due to the fact that it would be efficient for network users to know all the statistics of the packet information in able to conclude the fastest solution in the case of congestion.

2. Referring to Claims, 4, 19, and 34, Yavatkar discloses the system maintain information and would discards counts and queue length, refer to Col 7, Lines 15-25, which implies the system keep the counts of the packets coming into the buffer and track of the queue length. The predetermine condition is the set of max threshold buffer size, which define the maximum count threshold value for the amount of data the buffer can hold. Thus, only certain amount of data can be stored in the buffer, by determined the buffer is full, the system consists the capability to count a number of packets that is in the buffer.

Yavatkar does not indicate the system count the number of packets that exceed a predetermined maximum count threshold value.

Mawhinney discloses the amount of data actually delivered through the network and compare to the amount of data attempted which indicate the amount of data attempted minus the number of data actually deliver would be equal to the number of packet which exceed the predetermined threshold value. (refer to Col 3, Lines 25-35).

Art Unit: 2151

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Yavatkar and Mawhinney's invention due to the fact that it would be efficient for network users to know all the statistics of the packet information in able to conclude the fastest solution in the case of congestion.

3. Referring to Claims 5, 20, and 35, Yavatkar discloses the system maintain information and would discards counts and queue length, refer to Col 7, Lines 15-25, which implies the system keep the counts of the packets coming into the buffer and track of the queue length. The predetermine condition is the set of max threshold buffer size, which define the maximum count threshold value for the amount of data the buffer can hold. Thus, only certain amount of data can be stored in the buffer, by determined the buffer is full, the system consists the capability to count a number of packets that is in the buffer.

Yavatkar does not indicate the system count the number of packets that exceed a predetermined maximum count threshold value.

Mawhinney discloses the amount of data actually delivered through the network and compare to the amount of data attempted which indicate the amount of data attempted minus the number of data actually deliver would be equal to the number of packet which exceed the predetermined threshold value. (refer to Col 3, Lines 25-35).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Yavatkar and Mawhinney's invention due to the fact that it would be efficient for network users to know all the statistics which including the ratio of the

Art Unit: 2151

total incoming packet verse the total number of packets dropped in able to conclude the fastest solution in the case of congestion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 6,237,029 (Master et al discloses method and apparatus for adaptable digital protocol processing)
- US 5,313,454 (Bustini et al discloses a congestion control for cell networks)

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2151

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT


ZAHNI MAUNG
SUPERVISORY PATENT EXAMINER